

# **Exhibit 17**

1  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK

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5 U.S. COMMODITY FUTURES TRADING  
6 COMMISSION,

7 Plaintiff,

8 vs. 13 Civ 1174 (GBD)  
9 ECF Case

10  
11 WILLIAM BYRNES, CHRISTOPHER CURTIN,  
12 THE NEW YORK MERCANTILE EXCHANGE, INC.,  
13 and RON EIBSCHUTZ,  
14 Defendants.

15 -----  
16  
17 DEPOSITION OF WILLIAM BYRNES  
18  
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20 Monday, November 23, 2015  
21 New York, New York  
22

23 Reported by:

24 JOAN FERRARA, RPR, RMR, CRR

25 JOB NO. 100514

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November 23, 2015

9:32 a.m.

New York, New York

Deposition of William Byrnes, held at  
the offices of Commodity Futures Trading  
Commission, 140 Broadway, New York, New  
York, Pursuant to Notice, before Joan  
Ferrara, a Registered Merit Reporter,  
Certified Realtime Reporter, and Notary  
Public of the State of New York.

1 W. Byrnes

2 A I switched to Farrell Futures,  
3 which was in the cotton and orange juice.

4 Q What was your title at Farrell  
5 Futures?

6 A Director of sales and  
7 operations. So I would reach out, cold  
8 call.

9 Q Tell me, generally, about what  
10 your responsibilities were in connection  
11 with that job.

12 A Same thing, talk to customers,  
13 get orders, try to find new customers.

14 Q In connection with your work at  
15 Farrell Futures, did you have access to  
16 confidential trading information?

17 A I don't recall.

18 Q Do you recall receiving any  
19 training or guidance regarding treatment of  
20 confidential trading data?

21 A No, sir.

22 Q How long were you at Farrell  
23 Futures?

24 A From 2004 to 2007.

25 Q And where did you go in 2007?

1 W. Byrnes

2 A I went to the NYMEX.

3 Q When did you start in 2007  
4 working at NYMEX?

5 A April, I believe.

6 Q What position were you hired  
7 into at NYMEX?

8 A An analyst on ClearPort.

9 Q And what were your  
10 responsibilities as an analyst on  
11 ClearPort?

12 A Answer the phone, enter trades,  
13 fix trades that were rejected on the block.

14 Q As an analyst on ClearPort, did  
15 you have any understanding of who your  
16 customers were?

17 A Can you explain?

18 Q Sure.

19 Did you have any customers as an  
20 analyst on the ClearPort desk?

21 A Of my own?

22 Q Yes.

23 A No.

24 Q Did NYMEX have any customers?

25 MR. HOGAN: Object to the form.

1 W. Byrnes

2 was information about an individual's trade  
3 publicly available?

4 A No.

5 Q On the day after a trade was  
6 executed or cleared, was information  
7 regarding that trade an individual's -- let  
8 me try that again.

9 On the day after a trade  
10 occurred, was information about an  
11 individual's trade publicly available?

12 MR. JACKOWSKI: Objection to  
13 form.

14 A There was a volume report daily,  
15 trade date plus one.

16 Q Is that a yes or a no?

17 MR. HERSKOVITS: Object to that  
18 question. His answer was his answer.  
19 It didn't require a yes or no  
20 response.

21 MR. CHUDY: I think it did.

22 A There was information available  
23 trade date plus one.

24 Q What information is publicly  
25 available on a trade date plus one?

1 W. Byrnes

2 A Volume, strike price.

3 Q And the volume, strike price, is  
4 that on an aggregate basis that it's  
5 publicly available?

6 MR. JACKOWSKI: Object to the  
7 form.

8 A Do you mean like a total volume?

9 Q Correct.

10 A Yes.

11 Q On a trade plus one basis, was  
12 information regarding an individual  
13 trade -- let me try that again.

14 You testified that there was a  
15 volume report daily, trade date plus one,  
16 right?

17 A Uh-huh.

18 Q Can you please explain what  
19 information was available on that volume  
20 report?

21 A Volume traded, strike price,  
22 settlement price. I can't recall if there  
23 was more information or not.

24 Q Let's break this down.

25 The volume traded that you

1 W. Byrnes

2 referred to that was publicly available the  
3 next day, did that volume indicate an  
4 individual customer's volume traded?

5 MR. HERSKOVITS: Object to the  
6 form.

7 A It depended. It could have if  
8 they were the only ones that traded it that  
9 day, but --

10 Q Assuming you had -- go ahead.

11 A If there were more people  
12 trading it, it would not break it down  
13 specifically to each person.

14 Q So it would show the aggregate  
15 volume traded, correct?

16 MR. JACKOWSKI: Object to the  
17 form.

18 A Correct.

19 Q And the strike price  
20 information, how would you characterize the  
21 strike price information that was available  
22 the next day?

23 A All strikes that traded were on  
24 the volume report.

25 Q Was it an average strike price



1 W. Byrnes

2 that was shown the next day?

3 A No. Every individual.

4 Q And did the report show the  
5 individual strike price that individual  
6 customers executed?

7 A It showed all the strike prices.

8 Q Did it show which customer  
9 executed at which strike price?

10 A No.

11 Q Mr. Byrnes, CME Group purchased  
12 NYMEX in or about 2008, right?

13 A I don't know when the purchase  
14 went through.

15 Q Putting aside the date of the  
16 purchase, after NYMEX was purchased, did  
17 your role with respect to ClearPort change?

18 A No.

19 Q Did your day-to-day  
20 responsibilities change at all?

21 A No.

22 Q Did the staffing on the  
23 ClearPort desk change at all after the  
24 merger?

25 A No.

1 W. Byrnes

2 MR. HERSKOVITS: Objection to  
3 form.

4 A I don't.

5 Q Mr. Byrnes, during your tenure  
6 at NYMEX, do you recall receiving any  
7 training regarding the treatment of  
8 confidential information?

9 A I don't recall any training.

10 Q Do you recall giving anyone any  
11 training regarding the treatment of  
12 confidential information?

13 A No.

14 Q During your tenure at NYMEX, do  
15 you recall having to verify who ClearPort  
16 users were?

17 A When processing a registration.

18 Q Can you tell me about that?

19 A We would receive a registration  
20 by e-mail. There would be an administrator  
21 for that company. We would contact them to  
22 make sure that this was a person they want  
23 added to their firm.

24 Q Mr. Byrnes, do you know an  
25 individual by the name of Ron Eibschutz?

1 W. Byrnes

2 A Yes.

3 Q Who is he?

4 A He was a broker at Parity and  
5 then Poten Energy.

6 Q How did you become acquainted  
7 with him?

8 A Through friends. We all went  
9 out for drinks.

10 Q You mentioned an entity named  
11 Parity. What is Parity?

12 A It was a broker company.

13 Q Can you generally describe  
14 Parity's business?

15 A I don't recall. They were a  
16 trader. They were a broker, a broker  
17 company doing business on ClearPort.

18 Q Do you know if Parity generated  
19 any revenues for ClearPort?

20 A I don't know what they did for  
21 business.

22 Q Do you know if Parity paid any  
23 fees to clear trades on ClearPort?

24 A I have no idea.

25 Q Do you have an understanding of

1 W. Byrnes

2 how much volume Parity transacted on  
3 ClearPort?

4 A None.

5 MR. HOGAN: Object to the form.

6 BY MR. CHUDY:

7 Q Mr. Byrnes, you mentioned  
8 earlier that you met Ron Eibschutz through  
9 friends. Can you identify who the friends  
10 were?

11 A He invited the trading desk out  
12 for drinks one day. It was myself, Chris  
13 Curtin, Denai Belancourt -- I'm not sure if  
14 a gentleman Manny was there still or not, I  
15 believe he was.

16 I'm not sure if anybody else  
17 came out with us, but I know there were a  
18 bunch of us that went and met him and had a  
19 couple of drinks.

20 Q Do you recall where you went?

21 A No.

22 Q Did you go out for drinks often?

23 A I can't recall how often, but it  
24 was more than one, probably less than 20.

25 Q When you went out for drinks, do